

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company (U 338-E) for Approval of a Power Purchase Agreement under PUHCA Section 32(k) Between the Utility and a Wholly-Owned Subsidiary and for Authority to Recover the Costs of Such Power Purchase Agreement in Rates.

Application 03-07-032
(Filed July 21, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING CONFIDENTIALITY
OF INFORMATION AND PROTECTIVE ORDER**

Summary

This ruling addresses the motion filed by Southern California Edison Company (Edison) for leave to file confidential information under seal and for a protective order. The motion is granted in part, and denied in part, and the parties are directed to comply with the terms of the protective order issued April 4, 2003, in R.01-10-024 by Administrative Law Judges (ALJ) Allen and Walwyn. A copy of that Protective Order is attached to this ruling as Attachment A.

Background

On July 21, 2003, Edison filed an application for approval of a Power Purchase Agreement (PPA) between the utility and a wholly-owned subsidiary and for authority to recover the costs of such PPA in rates, and simultaneously filed this motion for leave to file documents under seal and for a protective order. Edison indicated that the documents filed with its application contained

confidential information in the application, testimony, and supporting documents, and were submitted under Pub. Util. Code § 583 and General Order 66-C. Edison stated that the information includes confidential and proprietary information from third parties pertaining to the Mountainview Power Plant (Mountainview) and that the information was obtained under the terms of confidentiality agreements with the entities involved with Mountainview. Edison further states that its application with its supporting documents and testimony contains sensitive information about Edison's system electric demand and supply and long-term resource plans.

As a corollary to Edison's request for a protective order, Edison also asked the Commission to expedite the protest period for responding to the application and shorten the time for responding to the motion for a protective order. The Independent Energy Producers Association (IEP) filed a response opposing any shortening time.

Rulemaking (R.) 01-10-024

Rulemaking 01-10-024, referred to as the Generation Procurement Rulemaking (GPOIR), is an on-going proceeding to establish policies and cost recovery mechanisms for generation procurement and renewable resource development. Hearings are presently under-way in the rulemaking. IEP filed a motion to consolidate this application with the GPOIR on the grounds that both proceedings have a number of complex and interrelated factual and policy issues and involve many of the same parties.

On April 4, 2003, the assigned ALJs to the GPOIR issued a ruling regarding the confidentiality of documents and set forth a protective order. The ruling identified the scope of materials that should be considered confidential.

Discussion

Based on IEP's arguments in support of consolidating the Mountianview application with the GPOIR, it is apparent that there is a confluence of issues between the two proceedings that makes it fair and reasonable to apply the concepts from the protective order issued in the GPOIR to this application. The parties should sign that same protective order¹.

Edison's request for an order shortening time to respond to this motion for a protective order is denied. Edison's request to expedite the protest time is the subject of a separate ruling.

IT IS RULED that:

1. The Protective Order in this proceeding will be the same as the Protective Order issued in Rulemaking (R.) 01-10-024, a copy of which is attached as Attachment A.
2. Upon signing the modified Protective Order, parties will have access to confidential information as described in R.01-10-024.
3. Southern California Edison Company's request for an order shortening time to respond to this motion for a protective order is denied.

Dated August 1, 2003, at San Francisco, California.

/s/ CAROL BROWN
Carol Brown

¹ A Protective Order was initially issued in R.01-10-024 by ALJ McKenzie on April 25, 2002, and May 1, 2002. The Protective Order issued April 4, 2003, by Judges Allen and Walwyn was a modified version of the McKenzie order. The Protective Order adopted for this application proceeding is the modified Protective Order issued on April 4, 2003 in R.01-10-024.

Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Confidentiality of Information and Protective Order on all parties of record in this proceeding or their attorneys of record.

Dated August 1, 2003, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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A.03-07-032 CAB/hl2

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